RECENT CASES

ADMIRALTY — ADOPTION OF ADMIRALTY RULES BY COMMON-LAW COURTS. — A sailor sued in a state common-law court to recover damages for an injury caused at sea by the negligence of the shipowners. *Held*, that damages must be granted in accord with the admiralty rule, not the common law. *Chelentis* v. *Luckenbach S. S. Co.*, 247 U. S. 372.

For a discussion of this case, see NOTES, p. 300, *supra*.

AGENCY — NATURE AND INCIDENTS OF THE RELATION — LIABILITY OF AGENT FOR INTERFERENCE WITH A PROSPECTIVE SALE. — The plaintiff alleged that the defendant was his agent to effect a sale, that the defendant prevented a sale prearranged for a certain price by representing to the purchaser that the defendant had title instead of the plaintiff, that this statement was false and known to the defendant to be false, and that the plaintiff was thereby forced to sell for less. *Held*, that a good cause of action was stated. *Zeck* v. *Bowers*, 171 N. W. 673 (Iowa).

An agent owes a duty of loyalty to his principal. He must take no position conflicting with the interests of the latter. *Quinn* v. *Burton*, 195 Mass. 277, 81 N. E. 257; *Hofflin* v. *Moss*, 67 Fed. 440. See MECHEM ON AGENCY, § 455. And he is liable for any loss to his principal resulting from his disloyalty. *Watson* v. *Bayliss*, 62 Wash. 329, 113 Pac. 770. There seems also to be present here sufficient basis for recovery on the theory of slander of title by a rival claimant. The necessary elements of such an action are a false disparagement of the plaintiff's title, published maliciously, and causing actual damage. *Fearon* v. *Fodera*, 169 Cal. 370, 148 Pac. 200. See SALMOND ON TORTS, 3 ed., § 149, 4, 7. The defendant's knowledge that his representation was false probably constitutes malice. *Long* v. *Rucker*, 166 Mo. App. 572, 149 S. W. 1051. See J. Smith, "Disparagement of Property," 13 COL. L. REV. 30. Still another ground for the decision could be found in the wrongful interference with the plaintiff's advantageous relation. Where the plaintiff would have entered into a contract but for the wrongful interference of a third party, the interference has been held to be a tort. *Lewis* v. *Bloede*, 202 Fed. 7; *Tarleton* v. *M'Gawley*, 1 Peake, 270. This goes a step further than the principle, now well established, that it is a tort for a third person to induce a breach of contract. *Lumley* v. *Gye*, 2 E. & B. 216. See Notes, 31 HARV. L. REV. 1017. This doctrine is increasing in favor, but still faces serious opposition. *Davidson* v. *Oakes*, 128 S. W. 944.

BANKRUPTCY — BANKRUPTCY ACT OF 1898 — CONSTRUCTION OF § 4 A — MEANING OF THE WORD "RAILROAD." — An electric street railway operating a short line over the streets of a single town filed a voluntary petition in bankruptcy. The Bankruptcy Act of 1898 (§ 4 a) provides that a "railroad" may not be granted voluntary bankruptcy. *Held*, that the petitioner be adjudicated a bankrupt. *Matter of Grafton Gas & Electric Light Co.*, 42 Am. B. R. 567 (Dist. Ct., N. D., W. Va.).

Railroads are not subject to bankruptcy proceedings, under § 4 of the Bankruptcy Act, for the reason that they are the most important of all public-service corporations. Transportation must not be interrupted while their financial affairs are being straightened out. See *In re Hudson River Power Transmission Co.*, 183 Fed. 701, 704. The proper method of dealing with insolvent railroads, therefore, is by way of a receivership rather than by proceedings in bankruptcy. Street railways are the most important local public utilities. Like considerations exist for including them in the exception of § 4 as exist in the

case of steam roads. Moreover, the word "railroad" in its generic sense includes street railways. *Bloxham* v. *The Consumers' Electric Light & Street R. Co.*, 36 Fla. 519; *Mass. Loan & Trust Co. et al.* v. *Hamilton*, 88 Fed. 588. Where there is nothing to indicate that the legislature intended to employ the term in a restricted sense it should be construed in its broadest signification. See *Gyger* v. *Phila., etc. Ry. Co. et al.*, 136 Pa. St. 96, 104; *Shreveport Traction Co.* v. *Kansas City, S. & G. Ry. Co.*, 119 La. 759, 773. The decision in the principal case seems of doubtful propriety. The court relies chiefly on the construction given to the word "railroad" in the Interstate Commerce Act of 1887. The Supreme Court has held that the term does not include street railways. *Omaha & Council Bluffs St. Ry. Co.* v. *Interstate Commerce Commission*, 230 U. S. 324. But in that case the court expressly rests its decision on the intention of Congress, as gathered from the context, not to subject street railways to the provisions of the act. No general or arbitrary rule is laid down that the word "railroad" in federal statutes shall always be construed in its narrow sense.

BANKRUPTCY — PREFERENCES — ACTION BY TRANSFEREE TO RECOVER PROCEEDS OF PROPERTY SOLD BY TRUSTEE. — One month before bankruptcy a creditor, knowing the debtor to be insolvent, took a conveyance of a crop of rice in discharge of all claims. These claims were partially secured by a mortgage on livestock worth $3,000. The creditor had advanced $2,000 for rent and seed upon the debtor's promise to pay the old debt and advances out of the proceeds of the crop. The creditor spent $3,600 harvesting the crop. The trustee avoided the transfer and sold the crop, realizing $11,000. Bill to require the trustee to pay over all or part of the proceeds of the crop. *Held*, that the bill be dismissed. *Crawford et al.* v. *Broussard et al.*, 43 Am. B. R. 603 Circ. Ct. App.).

A transfer founded upon present consideration is not a preference. *Ernst et al.* v. *Mechanics, etc. Bank*, 201 Fed. 664. By the better view a transfer partly to pay an antecedent debt and partly for present consideration is separable into its voidable and valid parts. *In re Cobb*, 96 Fed. 821; *In re Dismal Swamp Contracting Co.*, 135 Fed. 415. If such a transfer is avoided, the trustee should restore what was given: in the principal case, the amount of the mortgage surrendered. *Barber* v. *Coit*, 144 Fed. 381. It seems clear that the trustee should restore the money spent in harvesting the crop before the avoidance of the transfer. Otherwise the estate would be unjustly enriched at the expense of one who is not an intermeddler. *Crandall* v. *Coats*, 133 Fed. 965. See *Seig* v. *Greene*, 225 Fed. 955, 961. But the creditor should not recover the old debt or the advances. Although the original agreement to pay these claims out of the proceeds of the crop was made six months before bankruptcy, there was no crop until within four months. Consequently there could be no lien until it was too late for the debtor to dispose of his property according to his contracts. *In re Dismal Swamp Contracting Co., supra.* See Samuel Williston, "Transfers of Personal Property," 19 HARV. L. REV. 573.

BANKRUPTCY — PROPERTY PASSING TO THE TRUSTEE — UNENFORCEABLE CLAIM AGAINST THE GOVERNMENT. — The bankrupt was one of a class of railroad employees that, prior to January 1, 1918, had made a demand for increased wages. Upon the railroads being taken over by the government, the director-general of railroads promised to investigate the claim, and to make any increase in pay, in case such should be granted, retroactive to January 1, 1918. § 70 *a* (5) of the Bankruptcy Act of 1898 provides that "property which . . . [the bankrupt] could by any means have transferred" shall pass to the trustee. The trustee claimed the money paid on the basis of services performed by the bankrupt prior to the adjudication, in pursuance of an order made by the